

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT WARD GARRISON,

Plaintiff,

v.

DOUG WADDINGTON, *et al.*,

Defendants.

Case No. C05-5487 RJB/KLS

ORDER GRANTING PLAINTIFF'S
MOTION FOR EXTENSION OF
TIME AND DENYING MOTION
FOR COSTS OF SHIPPING LEGAL
BOXES

This civil rights action has been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. § 636(b)(1)(B) and Local MJR 3 and 4. Presently before the Court is Plaintiff's motion for an extension of time to respond to Defendants' motion for summary judgment and discovery responses and requiring the Department of Corrections (DOC) to ship Plaintiff's legal boxes. (Dkt. # 84). For the reasons stated below, the extension of time shall be granted, but Plaintiff's request for shipping costs shall be denied.

I. DISCUSSION

This is Plaintiff's fifth request for an extension of time to respond to Defendants' motion for summary judgment. The summary judgment motion was filed on July 21, 2006 and originally noted

1 for August 25, 2006. Defendants did not oppose Plaintiff's previous motions for extensions of time.
2 Plaintiff bases his current motion on his recent transfer from the Washington State Penitentiary to
3 Stafford Creek Corrections Center. Plaintiff states that he now has "three or four or more boxes of
4 legal files, sitting at WSP. And DOC policy pays only for two boxes to be shipped, Garrison who is
5 indigent is unable to pay for the other boxes of his legal materials!" (Dkt. # 84 at 4). Plaintiff states
6 that, until such time as he is in possession of his needed case files, documents and exhibits, he will be
7 unable to reply to Defendants' objections to his discovery requests and Defendants' motion for
8 summary judgment. (*Id.*). Plaintiff seeks an extension of forty-five days and an order directing DOC
9 to ship his remaining legal boxes at DOC expense.

10 Defendants do not oppose Plaintiff's request for an extension of time but do oppose
11 Plaintiff's motion to require DOC to ship Plaintiff's property because DOC policy requires inmates
12 to pay the costs of shipping their excess property whenever they are transferred from one DOC
13 institution to another. *See*, RCW 72.02.045; DOC Policy 440.020. In addition, Defendants argue
14 that Plaintiff has not shown that he has any legal right to have DOC ship his personal property to him
15 at state expense. To the contrary, Defendants state that Plaintiff's claim of poverty is bogus in that
16 he received over \$50,000.00 within the last year in settlement of a case Plaintiff filed against King
17 County. (Dkt. # 85, Exh. 1, Attach. A). Plaintiff does not dispute this fact.

18 Accordingly, it is **ORDERED**:

19 (1) Plaintiff's unopposed request for an extension of time shall be **GRANTED**. The
20 Clerk of the Court shall **re-note** Defendants' motion for summary judgment (Dkt. # 38) for the
21 Court's docket of **August 17, 2007**. Plaintiff's brief and affidavits in opposition to the motion shall
22 be filed and served not later than 4:30 p.m. on the Monday immediately preceding the Friday
23 appointed for consideration of the motion; if plaintiff fails to file and serve timely opposition to the
24 motion, the Court may deem any opposition to be without merit. Defendants may file, not later than
25 4:30 p.m. on the Thursday immediately preceding the Friday designated for consideration of the

1 motion, a response to the opposing party's briefs and affidavits.

2 (2) As it appears that Plaintiff has the funds available to pay his own shipping costs,
3 Plaintiff's request for costs of shipping is **DENIED**; and

4 (3) The Clerk is directed to send copies of this Order to Plaintiff and counsel for
5 Defendants.

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7 DATED this 19th day of June, 2007.

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10 Karen L. Strombom
11 United States Magistrate Judge
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